

REMARKS

This Application has been carefully reviewed in light of the Official Action mailed March 28, 2006. In order to advance prosecution of this Application, Claims 1-8, 11, 12, 14, and 16-26 have been amended. Applicant respectfully requests reconsideration and favorable action in this Application.

Claims 1-3, 9, 11-14, 16-19, and 22-24 stand rejected under 35 U.S.C. §102(e) as being anticipated by Merchant, et al. Independent Claims 1, 11, 17, and 22 recite in general an ability to generate a re-replicated data entry in a non-failed first or second one of a plurality of nodes for storage at a third one of the plurality of nodes in response to a failure in the first or second one of the plurality of nodes. By contrast, the portions of the Merchant, et al. application cited by the Examiner specifically discuss removal of data from a faulty node. Thus, the Merchant, et al. patent does not disclose re-replication of a data entry from a non-failed node for storage in a third node in response to identification of a failed node as provided in the claimed invention. Support for the above recitation can be found at page 7, line 14, to page 8, line 31, of Applicant's specification. Therefore, Applicant respectfully submits that Claims 1-3, 9, 11-14, 16-19, and 22-24 are not anticipated by the Merchant, et al. application.

Claims 4-8, 10, 15, 20, 21, 25, and 26 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Merchant, et al. in view of Ohran, et al. Applicant respectfully traverses this rejection. Independent Claim 1, from which Claims 4-8 and 10 depend; Independent Claim 11, from which Claim 15 depends; Independent Claim 17, from which Claims 20 and 21 depend; and Independent Claim 22, from which Claims 25

and 26 depend, have been shown above to be patentably distinct from the Merchant, et al. application. Moreover, the Ohran, et al. patent does not include any additional disclosure combinable with the Merchant, et al. patent that would be material to patentability of these claims. Therefore, Applicant respectfully submits that Claims 4-8, 10, 15, 20, 21, 25, and 26 are patentably distinct from the proposed Merchant, et al. - Ohran, et al. combination.

CONCLUSION

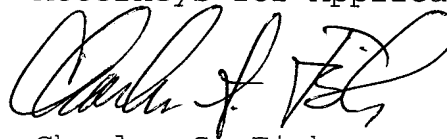
Applicant has made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other apparent reasons, Applicants respectfully request full allowance of all pending claims.

The Commissioner is hereby authorized to charge any fees or credit any overpayments associated with this Application to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

Respectfully submitted,

BAKER BOTTS L.L.P.

Attorneys for Applicants

A handwritten signature in dark ink, appearing to read 'Charles S. Fish', is written over the typed name.

Charles S. Fish

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